

MEETING NOTES
COMMUNITY INVOLVEMENT ADVISORY COUNCIL

December 2, 2014

Smyrna State Service Center

Members Present: Jay Julis, Joseph Farrell, Pamela Meitner, William Pelham, Marvin Thomas

Members Absent: Harold Truxon, Robert Frederick, La Vaida Owens-White

DNREC: James Brunswick, Mr. Emory, Nicole Bixby

I. Meeting Called to Order

Mr. Pelham called the meeting to order at 9:35 a.m.

II. Meeting Protocol Review

Each Member read a point of the Council's protocol.

III. Review/Approval of Meeting Notes

MOTION *was made by Ms. Meinter to approve the October 21, 2014 meeting notes and a second was made by Mr. Julis. All in favor and the motion carried.*

IV. Council Membership

A. Reappointments

James advised he and Mr. Emory met with Lydia Prigg from the Governor's office and discussed the Governor's wishes for council. There are five reappointments to be filled. The two newest council members would hold over. The initial appointment is three years and one year after. Any member that wants to stay on the council will remain. All members who are up for reappointment will need to update their applications. James will send out the link to do so. Mr. Thomas advised he believed it needed to be notarized when it was done previously. James reviewed the descriptions of member representation that include communities, community-based non-profit organizations, environmental organizations, healthcare providers, local governments, academic institutions and business and industry. Mr. Emory advised that Lydia interprets it as if you retire from your representation description; you are no longer covered under that description. James advised the council that Mr. Truxon suffered a stroke. He is doing well, however it has affected his speech and right side. Mr. Pelham advised to give him his well wishes.

B. Executive Branch Recruitment

Lydia Prigg will be recruiting the three vacancies. Mr. Emory advised Ms. Prigg had a list of 3-4 people who have applied and are interested. Mr. Pelham asked if they will be moving forward with filling those positions and James advised yes, hopefully by February.

V. Community Environmental Project Fund-

A. New Professional Services Contract review

James had submitted all the contracts and purchase order for review. James said he was advised by Bob Zimmerman that in 2013 the department adopted a new contract for new professional contracts. All of the contracts that were approved by the council need to be redone on the new format. During the last funding cycle they had a \$10,000 grant. James is not sure that they will be able to do that this year with the new contract requirements. Section 18 states that every organization must have state business license. James needs to speak to the Deputy Attorney General about the contracts as far as what items could be waived. The state business license may not be able to be waived. James will check to see if they need to be incorporated or an actual business license from the state. Section 21 states that insurance coverages must be maintained. There are four types of insurance that are required and are substantial amounts. Cornerstone West has the coverage, but two others may not meet the insurance coverage requirements. James advised we may have to revisit the grant approvals. Section 2.4 states the obligations that there are monthly invoices that need to be submitted. There is a 1% penalty for any payment after 30 days. Mr. Julis advised a lot of the grants aren't monthly expenses but a lump sum, meaning that wouldn't be covered. James advised unless it's stated in an addendum that it is covered. Mr. Julis would like to vote that every grantee must be a 501(c). Mr. Thomas asked if James would get the response back from the Deputy Attorney General first before voting. James advised that Bob Zimmerman stated that all insurances would be required but the amounts may be able to be changed. Mr. Thomas asked if this contract was required for every state agency. James advised yes. Mr. Farrell asked if there is a difference between the grant and professional services contracts. James advised that there is Federal funding within the department, but these are professional contracts. A 123 of the new contract allows for change orders that at any time we can initiate a change in the contract. Section 13 gives the department more freedom on termination of a contract with 30 day notice given to grantee. There are strengths and weaknesses in the new contract. Mr. Emory advised it is straight forward, but there is more flexibility. Mr. Julis inquired about special requests for additional administrative funding from Mr. Chura. James advised the one concern was the selection of the site for the Delaware City Air Quality project while Ali was out of town. Mr. Julis asked if there were other location options. James advised there is another site the city agreed on and the property owner advised he would allow for the placement rent

free. Mr. Pelham asked what Ali's issue was with the continuation of the project; whether it was the project or all of the dilemmas that had come along with it. James advised it has just been the problems with the contract. Mark Chura hasn't provided all documentation. The original contract was \$5,088 and James got a \$9000 bill for administrative. James has no documentation of hours spent for this. Mr. Pelham asked if he was not pushing to be paid. James advised he has received 3 calls in the last month from Mark Chura about payment. Mr. Emory asked if the city was interested in taking the contract over? James advised there are three grants out there the city has obtained. Delaware City is interested in taking over the trail grant. We may need to revisit that grant to update it. The third grant is an observation deck and the City would like to take that over also. Mr. Pelham asked if James had to go through and revise the contract. Mr. Pelham asked why they didn't grandfather the contracts in effective of a certain date. The contracts were revised in July of 2013. James explained there was no funding cycle for 2013. If the contracts have expired they need to be revised. Mr. Thomas asked if that organization (Mark Chura) falls under the rest of the criteria in the contract. James advised he has to look into it. There was some general discussion about how a contract goes back and forth for negotiation. Mr. Emory advised there is too much flexibility when you negotiate a contract. Mr. Thomas asked if we could please go back to the Attorney General's office before we start talking about negotiations and before we make decisions about revising contracts. Mr. Julis stated that there is a reason than to take money back for lack of steps completed. Mr. Pelham stated that we need to at least give the applicants a warning of the new contract requirements. James advised that there needs to be an updated contract schedule with the contract with guidelines. Mr. Pelham stated that there is an attachment usually with a timeline. Mr. Emory asked if we are dealing with a non-profit and there are measures in there for time frames, how are you going to penalize them? It's all done through a grant so you are penalizing the grant money. James advised that in the new contract there needs to be an approval of any subcontractors. James advised that he had a tentative schedule until the contract renewals came out. At the last meeting the council wanted to go with January funding, so December 12 would be workshops, February 9 would have been due date and council meeting would have been February 17 for review of applications. Mr. Pelham advised his thought is that he doesn't want to see anything put off for the contract revisions. He hopes it doesn't get in the way of good groups receiving money for good projects. We would need to revisit with the Attorney General's office. Mr. Julis states that the state seems to be adamant about the new contract requirements. Why would we hold up the funding cycle when we haven't experienced a problem yet? James advised he wants more time to get things in order with timelines. Mr. Julis advised you have to ask the Attorney General's office about the monthly payments and the insurance requirements so that the Board has clarification. Ms. Meitner arrived at 10:20 a.m. and James updated her on the contract situation. Ms. Meitner asked if prior

to this did the Secretary on behalf of the state sign a contract between DNREC and the non-profit asking for the grant. James advised now the non-profit must have a Delaware Business License and how many small organizations can actually do this. Ms. Meitner wants to know why DNREC is using this contract. Ms. Meitner advised this is not a non-profit providing a service to the State of Delaware; we are giving the non-profit a grant. Why are we being forced into this measure and prevent the flow of money to non-profits. Ms. Meitner states we need to have a meeting with the Secretary to explain the inhibitions set on the council that is required by the statute. Ms. Meitner advised she thinks it's ill advised to go through with being forced to use the contract because the report to General Assembly would be no funds were actually given because of a policy issue. Mr. Pelham advised it is a way to protect themselves. Ms. Meitner advised when you are forcing a contract on someone you are giving a grant to, and then nothing will happen. James advised he has spoken to the grantees on the phone and all advised they will have no problems with new contracts. Mr. Emory advised some of the non-profits we have been dealing with haven't followed through. Knowing Bob Zimmerman this is a safeguard he put in place. It may be cumbersome, but we need to contact the Attorney General's office with a list of questions. We will go back and see if we can use something else, but it looks uniform. James advised even if contract wasn't required, we were heading for issues. Each division uses that contract (sponsor for grants) and it goes back to each division's fiscal section. Mr. Emory asked if we can go to the Attorney General's office and see what flexibility there is in the contract and get back to board members to not mess up the cycle. Ms. Meitner asked what the status of the grant request we approved? James said nothing has been signed until the new contracts are signed. Mr. Pelham asked what cycle Ms. Meitner was referring to. Ms. Meitner advised in August of 2014 they were approved. James advised those contracts have not been signed. Her concern is the report goes to the General Assembly on February 28 and if situation isn't addressed, the report will be \$0 have been given through CIAC because contracts aren't signed and it would look like a failure and embarrassment. Ms. Meitner states we need to have a meeting with the Secretary immediately so there are no setbacks. Mr. Pelham suggested that James goes back to grantees and give them the new contract agreement and get their signature. That way you have feedback for the Attorney General's office. Ms. Meitner states that we have an obligation under the statute to make recommendations to the Secretary. To stop the system means that we aren't doing what we are supposed to do. If he doesn't approve the contracts is beyond our control and we need to continue through the process. Ms. Meitner thinks we should stick with the schedule. Mr. Julis wants to stay on schedule and give the new grantees the new contract and go to the old grantees with new requirements. Mr. Farrell agrees. Mr. Julis inquired if a 501(c) is taxed with a business license. Mr. Thomas stated that we need to wait for the Attorney Generals responses to concerns. The five that have been spoken to have agreed to the new contracts, but

how will potential contractors react to the requirements and how will that impact our charge? Ms. Meitner asked the non-appropriation of funds (17.1) is really not appropriate because we spend funds until they are designated. Mr. Thomas stated this contract wasn't developed on the way we function; it was for all departments across the board. Mr. Pelham asked if he could appoint a sub-committee to visit with Attorney General's office? Somebody needs to develop a list of questions to go in with. Mr. Pelham advised he would like to see Ms. Meitner take this on with her background. Ms. Meitner agreed. Ms. Meitner is going out of town 2-3 week in January. Mr. Emory stated he would get up with Ralph (Dirk) Durstein from the Attorney General's office in Wilmington for an appointment. Ms. Meitner suggests emailing the contract to everyone on the committee and concerns can be emailed to Ms. Meitner. Mr. Pelham asked if we can make an exception and have the minutes done as soon as possible along with the new contract and sent out to members. Mr. Julis would prefer not to go to the Attorney General's office. Mr. Farrell may be able to if someone is needed. Mr. Thomas asked if we could send out the invitation and if a member can make it they can go. Mr. Julis said the main thing is to confirm a date as soon as possible, not so much the location. Mr. Emory suggested that we have Bob Zimmerman or his designee at the Attorney General's meeting. Mr. Emory will look into the meeting date and get back to Mr. Pelham. Ms. Meitner stated she is available on the morning of December 15th and all day on December 17th for a meeting. Mr. Pelham asked if we could to stay on schedule with the cycle.

B. 2015 CEPF Funding

James advised he must meet with Connie Mahoney to go over how much penalty money there is available.

C. CEPF Schedule

James advised the schedule would be announcement going out on December 16, the workshops would be January 12, the deadline would be February 9 and the meeting would be February 17 to review the applicants.

D. Community Ombudsman Annual Report

James advised he should have the annual report done by December 28.

VI. Community Ombudsman Report

A. Morningside Village

At the last meeting there was funding pending that would provide funding for a management entity. It is a low income community that can't pay for their septic system. During last legislative session there was money slated for this in the Governor's clean water act and that bill didn't pass. James understands that it will be reintroduced in next legislative session. If it does pass then there will be some relief for communities like Morningside Village. Until it passes we have to work with what we have. To date, Morningside Village residents attended a meeting on October 22 with 33 people in attendance at the Bridgeville fire hall.

At the meeting there were representatives that could assist. Delaware Rural Water Association (DRWA) attended the meeting and they have a circuit rider operator that will assist Morningside Village until a homeowner can be certified. On November 13, Brad Whaley from the Sussex County Development Office attended the meeting with a site visit to Morningside Village along with Mike Izzo from the Sussex County Planning department. An evaluation was done and they think most of the problems are electrical problems. Originally it was feared it would be around \$120,000 to bring the system into compliance; however it is now around \$20,000. Brad Whaley advised that this is within the range of grant requirements he may be able to assist with. The DRWA will serve as the operator for Morningside Village and Mike Izzo will go back and ask if Sussex County will take over billing and collections for the homeowners association. There isn't an answer back yet. James spoke to an attorney that was working with House Bill 308 which created a new ombudsman (common property ombudsman). This ombudsman would specifically work with communities that are having difficulties with contracts and responsibilities with a homeowners association as well as with septic systems. James said things have moved forward but still more work to do. The problem is still the homeowners association still has to have the capacity to bill and collect the money. They will have to go through the Treasurer's books and provide financial management training to the homeowners association and secure their participation in that training. The ombudsman has been selected but has to be approved by legislature. Mr. Pelham asked if we could show Mr. Truxon the courtesy of keeping him up to date. The temporary help is there but depends on the homeowners association taking responsibility.

B. Peninsula Composting Environmental Appeal

James advised Peninsula Composting is appealing the Secretary's order to shut them down. James distributed a copy of the appeal letter. They make the argument that business interests have been affected by the shutdown and that it is improper. The Environmental Appeal's board meeting will be March 10. James did speak to the 913 alliance and they are preparing to get people to attend the meeting. Environmental appeals are similar to court proceedings and witnesses will probably be chosen from public hearing attendees. You can attend the meeting at the DNREC R&R building and it is open to the public. Mr. Thomas advised in Sunday's paper Rep. Greg Lavelle commented on the compost and how bad it was.

C. Service Transport Group complaint

Representative JJ Johnson and Charlie Gonzales have contacted James about the asbestos transfer station. Mr. Gonzales stated that he observed workers cleaning a container in front of the building with asbestos gear on and a cloud of dust hit his house and was concerned with exposure. The Environmental Crimes Unit (ECU) went out to investigate and they found that it was a clean operation with no violations. They are processing what is required by permit with cleaning taking place inside of the facility and meeting the requirement to clean and repackage the

containers. ECU went without a warrant and the manager allowed them to come into the building and inspect with no violations. Ms. Meitner asked if anyone talked to Mr. Gonzales to take pictures? James advised Representative JJ Johnson gave him some cameras to record what is going on. James advised they had a conference call with Representative JJ Johnson and he contacted the Delaware Center for Horticulture for planting barriers between their property and residents on Pyles Ln. Representative JJ Johnson offered some of his traffic funds for landscaping. Residents have continuously complained about truck traffic that was to be limited to 2 axle trucks on that street. In 2011 there was a large community meeting with DelDOT and DNREC and they were able to get Pyles Lane paved and now needs repair and their houses are cracking due to truck traffic. James advised he would look into it. The manager agreed to attend a community meeting to explain the operation to the community. Representative JJ Johnson went to STG and met with manager and he agreed to a landscaping buffer. Mr. Pelham asked if they had to get a permit for the height of fence and James advised he doesn't know. James advised he wants to look into and report back to council on air sampling according to their permit. When James spoke to AQ, he was advised they had stopped the air monitoring due to a cost cutting measure. There are two divisions involved in the permitting and the division that is responsible for monitoring it stopped the monitoring as a cost saving measure. Mr. Pelham asked what they do with the material onsite. James advised it's in a container on a truck. Mr. Emory advised Chief Faedtke stated it is a transfer station and nothing is being opened. James encouraged the Delaware Center for Horticulture to apply for a grant for the City of Wilmington. The city has had an ordinance in place as far as businesses providing a barrier, but hasn't enforced it. Mr. Pelham asked what the city planner thinks of this? Mr. Emory advised Kara Coats would be a person to talk to as she used to work there and is now our new Deputy Secretary.

D. Ellendale Update

James advised that he talked to Office of Drinking Water (ODW) and they are interested in getting Ellendale drinking water. The provision is that the community needs to vote before they commit with the ODW. The ODW stated that Artesian wants to provide drinking water to suburban Ellendale. They may apply for the certificate of public necessity and convenience. Artesian then would absorb the costs into monthly billing. DNREC and ODW costs would be about \$38. Mr. Thomas asked if there has been an estimate if Artesian follows through? James advised there is not estimate. James called Mr. Truxon and explained the whole process to him. It starts with an application to USDA for a planning and engineering grant. USDA will meet with Ellendale Community and Civic Association to explain the process. The letter of intent would be due by March 26 and a workshop on February 25 with FAB. James will meet with Mr. Truxon's board and explain the process. Mr. Pelham asked what the population of Ellendale is? James said less than 4000. Mr. Emory advised no more than 800.

James also wanted to mention he encouraged the board to apply for grant money for public education.

VII. Open Forum

Ms. Meitner asked where we were on the Annual report. James advised it will be complete by December 28. Ms. Meitner advised the council would like to see it before it goes to legislature.

Ms. Meitner asked if the Secretary has been invited to any of the meetings. Mr. Emory advised he can invite him.

Ms. Meitner asked for the 2015 meeting dates. Ms. Bixby provided the dates for the 2015 meetings. She advised please don't move the date if the building isn't available, move the meeting location instead.

MOTION to adjourn at 11:35 a.m. was made by Mr. Julis and second by Mr. Pelham. All in favor and the motion carried.

Respectfully submitted,

Nicole Bixby
Administrative Specialist II, DNREC

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Community Involvement Advisory Council members and the public in supplementing their personal notes and recall of presentations.